

REMARKS

Claims 1-11 and 21 are currently pending in this application. In the Final Office Action mailed on September 16, 2003, the Examiner rejected claims 1-11 and 21 under 35 U.S.C. §112 and 35 U.S.C. §102. For the reasons stated below, Applicant believes its claims to be in condition for allowance.

Claim Rejections - 35 U.S.C. §112

The Examiner rejected the claims based on the language "three different dimensions," which the Examiner contends is not supported by the specification. The Examiner does note that "different axes" are identified in the specification. To narrow the issues for appeal, Applicant has proposed an amendment which changes "dimensions" to "axes." Clearly, this change is supported by the specification, which shows that "counterbalance 94 adjusts mass of shift lever 88 over pivot 98 along the X-axis, the Y-axis and Z-axis." Figures 7, 8 and 9 further support this amendment as well as paragraphs 31-34 of the specification (see Specification, page 6-7).

Claim Rejections - 35 U.S.C. §102(b)

The Examiner contends that such a limitation is anticipated by *Bair* as well as *Onoguchi, et al.* The Examiner contends that "the positioning of the third location is all relative to how a person looks at the device." [Final Office Action (9/16/03), page 3]. Applicant would appreciate clarification of this point. From Applicant's perspective, these references teach the altering of the center of mass along two different axes, not three different axes. Indeed, both *Bair* and *Onoguchi, et al.* show the adjustment of the center of mass along a vertical axis and one horizontal axis. They do not show the

60,446-184
01ZFM009/010/011

adjustment of mass along a third axis, say an additional horizontal axis. For this reason,
claims 1-11 and 21 are in condition for allowance.

Respectfully submitted,

CARLSON, GASKEY & OLDS

By: 

Anthony P. Cho
Registration No. 47,209
400 W. Maple Rd., Ste. 350
Birmingham, MI 48009
(248) 988-8360

Dated: November 17, 2003

CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being facsimile transmitted to Examiner Devon C. Kramer, Patent and Trademark Office (Fax No. (703) 872-9327) on November 17, 2003.


Theresa M. Palmateer

N:\Clients\ZP MERITOR\00184\PATENT\Response 11-17-03.doc